



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Mike Shaffer  
Environmental Engineer  
FMC Alkali Chemicals Division  
Box 872  
Westvaco Road  
Green River, WY 82935

Dear Mr. Shaffer:

This letter is in response to your facsimiles to Joyel Dhieux, Region 8, concerning the applicability of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, the facsimile asks for guidance on determining the primary Standard Industrial Classification (SIC) code for your facility.

In your facsimile you state that FMC Wyoming Corporation (hereinafter "FMC") located at Green River, Wyoming mines the mineral Trona ( $\text{Na}_2(\text{CO}_3)(\text{HCO}_3)2\text{H}_2\text{O}$ ). Trona is a naturally occurring mineral that contains the chemical sodium carbonate ( $\text{Na}_2\text{CO}_3$ ), the raw material for soda ash. You further state that FMC uses three separate processes to convert/purify the mined Trona into two types of soda ash, sodium carbonate ( $\text{Na}_2\text{CO}_3$ ) and sodium sesquicarbonate ( $\text{Na}_2\text{CO}_3\text{NaHCO}_3$ ). In particular, FMC uses the monohydrate, the sesquicarbonate and the evaporative lime deca-monohydrate (ELDM) processes to convert/purify the trona into soda ash. According to your facsimile, all three of these processes utilize some or all of the following steps: dissolving the ore, filtering to remove insoluble impurities, and crystallizing and heating to drive off excess carbon dioxide and water.

According to your facsimile, FMC does not sell the trona ore. The pure sodium carbonate (soda ash) produced from the trona, however, is sold to customers who manufacture glass, paper and laundry detergent products. Some of the soda ash is used by FMC on-site to produce sodium hydroxide, sodium bicarbonate, various sodium phosphates and sodium cyanide. You state that FMC recognizes that sodium bicarbonate and sodium hydroxide production fall under SIC code 2812, while sodium phosphate and sodium cyanide production fall under SIC code 2819.

Based on the above information, you want to know if this facility's primary SIC code falls under Major Group 14 (Mining and Quarrying of Nonmetallic Minerals, Except Fuels) or Major Group 28 (Chemicals and Allied Products). If this facility has a primary SIC code that falls under Major Group 14 then it is not an EPCRA section 313 covered facility and does not have to comply with the reporting requirements of EPCRA section 313. If, however, the primary SIC code for this facility falls under Major Group 28, then the facility would satisfy the SIC code criterion for determining covered facilities (40 CFR section 372.22 (b)), and the facility would have to consider the other criteria of section 372.22 to determine if it needs to comply with the reporting requirements, and possibly the supplier notification requirements, of EPCRA section 313.

The mining of the trona is an activity that falls under Major Group 14 (specifically, SIC code 1474, "Potash, Soda, and Borate Minerals"). SIC code 1474 includes "establishments primarily engaged in mining, milling, or otherwise preparing natural potassium, sodium, or boron compounds." "Trona mining" is specifically listed under SIC code 1474.

With regard to the processes performed on the trona to produce the soda ash, FMC needs to determine if the three processes utilized by FMC (and described by you as including dissolving, filtering, crystallizing, and heating) are predominantly chemical processes. If these processes are predominantly chemical processes then these activities would fall under Major Group 28. Major Group 28 includes the manufacturing of products "by predominantly chemical processes." Further, SIC code 2812 lists "soda ash, not produced at mines." If the processes performed on the trona are not predominantly chemical processes, but rather are physical processes, and if the soda ash is produced at the mines, then these processes would not fall under SIC code 2812. Instead, these process activities, like the actual mining of the trona, would fall under SIC code 1474.

Finally, with regard to classifying activities performed at FMC's Green River, Wyoming facility, you state that FMC recognizes that its sodium bicarbonate and sodium hydroxide production falls under SIC code 2812 ("Alkalies and Chlorine"). You also state that FMC understands that its sodium phosphate and sodium cyanide production falls under SIC code 2819 ("Industrial Inorganic Chemicals, Not Elsewhere Classified").

After determining which SIC code each of its activities falls under, the facility can then determine its primary SIC code. Based on the information provided, the FMC facility at issue appears to be a multi-establishment facility. The SIC Manual (1987) states that:

[A]n establishment is an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed. . . . Where distinct and separate economic activities are performed at a single physical location . . . each activity should be treated as a separate establishment where: (1) no one industry description in the classification includes such combined activities; (2) the employment in each such economic activity is significant; and (3) separate reports can be prepared on the number of employees, their wages and salaries, sales or receipts, and other types of establishment data.



If your facility meets the above conditions and is, in fact, a multi-establishment facility, then to determine if it satisfies the SIC code criterion for being a covered facility 40 CFR section 372.22(3) provides that one of the following must be true:

(i) The sum of the value of services provided and/or products shipped and/or produced from those establishments that have primary SIC major group or industry codes in the above list (the covered industries listed at section 372.22(b)) is greater than 50 percent of the total value of all services provided and/or products shipped from and/or produced by all establishments at the facility.

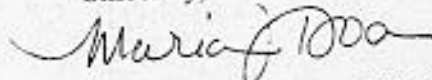
(ii) One establishment having a primary SIC major group or industry code in the above list contributes more in terms of value of services provided and/or products shipped from and/or produced at the facility than any other establishment within the facility.

The facility must first determine the primary SIC code for each establishment. Next, the facility must determine if (1) the sum of the value added from all the establishments with a covered primary SIC code is greater than 50% of the total value of all goods produced by the facility, or (2) any one establishment with a covered primary SIC code contributes more value from its goods than every other establishment making up the facility. If either of these conditions is met then the facility meets the SIC code criterion and must consider the other criteria listed at section 372.22 to decide if the facility must comply with the reporting requirements of EPCRA section 313.

However, in the event the FMC facility at issue does not satisfy all the conditions of a multi-establishment facility (as defined in the SIC Manual), and instead, is a one establishment facility then to determine the primary SIC code for the facility, FMC must determine which category of goods produced represents the highest value added. For example, if the soda ash production falls under SIC code 1474 because it is produced by predominantly physical processes at the mine, then FMC should compare the value added from both the trona mined and the soda ash produced (both fall under Major Group 14) with the value added from the production of the sodium bicarbonate, the sodium hydroxide, the sodium phosphate and the sodium cyanide (all of which fall under Major Group 28). The category of goods (SIC code 28 goods versus SIC code 14 goods) with the higher value added will determine the primary SIC code for the facility.

I hope this information is helpful to you in making threshold determinations and release and other waste management calculations for section 313 of EPCRA. If you have any other questions, or desire further information, please call either Larry Reisman at 202.260.2301 or me at 202.260.9592.

Sincerely,



Maria J. Doa, Ph.D., Chief  
Toxics Release Inventory Branch